



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.2199 OF 2024

Vishal Bhagwan Aagale

Age: 23 years, Occu.: Labour

R/o. Bholeshwar Nagar, Ambad Road,

Jalna, Tq. & Dist. Jalna

... Applicant

Versus

1. The State of Maharashtra
Through Officer In charge,
Police Station Taluka Jalna
District: Jalna.

2. The Superintendent of Police,
Jalna, Dist. Jalna.

... Respondents

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Mr. Sudarshan J. Salunke, Advocate for Applicant

Ms. Vaishali S. Chaudhari, APP for Respondents No.1 and 2 – State

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 21 JANUARY 2025

PRONOUNCED ON : 23 JANUARY 2025

ORDER :

1. Applicant seeks enlargement on bail by virtue of his arrest in Crime No.0439 of 2024 registered at Taluka Jalna Police Station, District Jalna, for offences punishable under Sections 103(1), 238 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

2. In support of relief, learned counsel for the applicant pointed out that applicant is arrested in the FIR dated 07.07.2024 on 09.07.2024. He pointed out that report resulting in registration of above crime by brother of deceased Laxman. That, apparently report is registered against

unknown person. That, the applicant has no previous enmity. That, there is no incriminating evidence, nor is there any discernible motive attributable to the present applicant. According to him, entire evidence is based on circumstantial evidence, but none of the circumstances pointed to the involvement of applicant. He pointed out that solely on the basis of some extrajudicial confession, there is implication. Further, he emphasized that even the witness to whom the alleged extrajudicial confession was made, his statement is recorded after 10 to 12 days. That, the said extrajudicial confession is said to be in the form of gestures and not verbal one. Thus, according to learned counsel, based on such weak evidence, the implication and arrest of the applicant are false. That, applicant is behind bar since more than five months. That, as nothing is to be recovered or discovered from the applicant, learned counsel seeks relief of regular bail.

3. While opposing the application, learned APP submitted that investigation revealed involvement of the present applicant. That, the Investigating Officer has gathered Call Detail Records (CDRs) suggesting conversations and an exchange of messages. That, the said electronic evidence is merely sufficient to connect the present applicant. According to him, offence being serious, applicant does not deserve relief of bail.

4. On giving thought to the above consideration and on going through the papers as well as FIR, it is emerging that one Rameshwar

Gaikwad approached Taluka Jalna Police Station on 07.07.2024 and lodged report that his mother came and informed him that his brother Laxman has been killed by someone in the vicinity of Rajputwadi, and therefore, he went there and verified and found that his brother lying dead with injuries on his chest, waist etc. He further reported that he questioned his mother about whom his deceased brother had been with the previous night. At that time, his mother told that on 06.07.2024 between 9:00 p.m. to 10:00 p.m., deceased Laxman had received a phone call and without informing anything he has left. On above report, crime seems to have been registered for the above offences.

5. Investigation is said to be over, and charge-sheet is also filed. As stated above, FIR is against unknown person. Even in the statement of mother of deceased namely, Gayabai, who has stated that she learnt from the police itself about someone killing her son Laxman. Further, she has informed in her statement to the police that deceased had no quarrel with anyone. Postmortem report of deceased Laxman reveals that he had suffered multiple stab wounds and incised wounds on distinct parts of the body. As stated above, FIR is registered against unknown person. Statements of some witnesses are recorded, which shows that even present applicant has suffered injuries and was required to be admitted on the intervening night of 06.07.2024. Statement of one Dnyaneshwar @ Mauli Karbhari Mangde came to be recorded on 18.07.2024, which

shows that there was extrajudicial confession to such witness by present applicant by making gestures regarding committing murder of Laxman. Applicant also appears to have suffered injuries, however, paper shows that his statement is recorded on 09.07.2024. He as attributed assault by four unknown masked persons for assaulting him and he was hospitalized. It is also pertinent to note that, in spite of he reporting assault by knife and seeking action, surprisingly, on his above statement, no crime has been registered against anyone. On Court query, both learned counsel for applicant as well as learned APP conceded that on above statement of applicant, FIR has not been registered even against unknown persons.

However, from above discussion it emerging that both deceased Laxman as well as the present applicant have suffered injuries on the same night. Therefore, facts are not getting clear. There is said to be evidence in the form of CDR. Resultantly, in the light of above material, this Court is not inclined grant relief of bail at this stage. Hence, the following order :

ORDER

- (i) Application is rejected.

**ABHAY S. WAGHWASE,
JUDGE**